

Objection Deadline: July 27, 2012 at 5:00 pm (as extended)  
Hearing Date: August 2, 2012 at 2:00 pm

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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re: : Chapter 11  
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PATRIOT COAL CORPORATION, *et al.*, : Case No. 12-12900 (SCC)  
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Debtors. : Jointly Administered  
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LIMITED OBJECTION OF THE STATE OF WEST VIRGINIA TO DEBTORS' MOTION  
FOR APPROVAL OF EXPEDITED PROCEDURES FOR (i) THE SALE OF CERTAIN  
ASSETS FREE AND CLEAR OF LIENS, CLAIMS AND ENCUMBRANCES AND (ii) THE  
ABANDONMENT OF CERTAIN OF THE DEBTORS' PROPERTY

The State of West Virginia and its Department of Environmental Protection ("DEP" and  
collectively "West Virginia") respectfully represents:

Relief Requested

1. By Motion dated July 19, 2012, Patriot Coal Corporation and its affiliated debtors  
and debtors in possession in these chapter 11 cases (the "Debtors") request entry of an order  
under sections 105(a), 363, and 554 of the United States Bankruptcy Code establishing

procedures for the expedited sale or abandonment of property the Debtors describe as having de minimis value.

2. In the Motion, the Debtors propose to provide limited notice of the proposed sale or abandonment of the de minimis property. They propose to provide no notice for sales of property for sale prices less than \$2 million. For asset sales with sale prices between \$2 and \$5 million, the Debtors propose to provide notice with limited information and only to the United States Trustee, the Debtors' postpetition bank group, the creditors' committee, and any person with a particularized interest in the assets to be sold. The Debtors' proposed procedures for the abandonment of de minimis assets are substantially similar, except for the addition of the party to whom the property is to be abandoned to the notice list.

3. As explained in more detail below, West Virginia has an undeniably significant direct and particularized interest in all property relating to the Debtors' extensive mining operations within the State of West Virginia.

4. Accordingly, any order establishing procedures for the sale or abandonment of property should require that the Debtors provide notice to West Virginia of any proposed sale or abandonment of coal-mining related property within the State of West Virginia, irrespective of the alleged "sale price" or value of the property, with additional information as to the applicable and affected DEP permits relating to that property.

#### Background

5. The Debtors comprise one of the largest coal mine operators in the State of West Virginia. They operate or control hundreds of coal mines on tens of thousands of acres of land in the State of West Virginia under hundreds of permits issued by DEP.

6. Given the current state of the market for coal as described in detail in the Debtors' declaration under Bankruptcy Rule 1007 filed in connection with their petitions, the Debtors may seek to sell or abandon some of the mines and related property it currently owns, operates, or controls.

West Virginia's Interest in the Debtors' Property

7. The Debtors' sale or abandonment of these mining properties may substantially affect the State and people of West Virginia. The Debtors have an obligation under the laws of the State of West Virginia to reclaim mined land, triggered by the cessation of mining activities on the mined land.<sup>1</sup> Their failure to comply with these obligations upon the sale or the abandonment of property would threaten the health and safety of West Virginians and shift the responsibility for reclaiming the land to the State of West Virginia at an enormous cost to its taxpayers.

8. As a consequence, the State of West Virginia is a party having a substantial direct and particularized interest in the sale or abandonment of any and all property relating to mining operations within the State of West Virginia, thus entitling it to actual and direct notice of the same under the Debtors' proposed procedures, the Case Management Order entered in these chapter 11 cases, or otherwise.

9. Notice of the proposed sale or abandonment of coal-mining property is, moreover, necessary to provide West Virginia an adequate opportunity to respond to the Debtors' proposed sale or abandonment. Advance notice, with the applicable and affected DEP permits, would enable West Virginia to investigate and review the affected mines and properties and determine the Debtors' compliance with the laws and regulations of the State of West Virginia, a necessary

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<sup>1</sup> *Midlantic National Bank v. New Jersey Department of Environmental Protection*, 474 U.S. 494, 507 (1986) ("Bankruptcy Court does not have the power to authorize an abandonment without formulating conditions that will adequately protect the public's health and safety").

step to formulating a position on any proposed sale or abandonment of any coal mining-related property.

10. In contrast, adding the permit information and West Virginia as a party receiving notice as to properties only in the State of West Virginia would impose only a de minimis burden upon the Debtors.

11. As the Debtors have not moved to approve the sale or abandonment of specific property, but only for an order establishing notice and objection procedures relating to future sales and abandonments, West Virginia requests only that it receive notice under any order establishing such procedures with the additional information requested.

WHEREFORE, West Virginia respectfully requests that the entry of any order approving procedures for the sale or abandonment of property require the Debtors to provide (a) actual and direct notice to West Virginia of the proposed sale or abandonment of property relating to the Debtors' coal-mining operations within the State of West Virginia, irrespective of the alleged "sale price" or value of the property, and (b) the identity of any applicable and affected permit issued by DEP with respect to that property.

Dated: July 26, 2012

BAILEY & GLASSER, LLP

By: /s/ Kevin W. Barrett

Kevin W. Barrett

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**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing Limited Objection of the State of West Virginia to Debtors' Motion for Approval of Procedures for the Rejection of Executory Contracts and Leases and Abandonment of Personal Property was electronically filed with this Court on July 26, 2012, and served by Federal Express next-day delivery on the following:

- (a) The Honorable Shelly Chapman  
United States Bankruptcy Court  
One Bowling Green  
New York, New York 10004
- (b) Davis Polk & Wardwell LLP  
450 Lexington Avenue  
New York, NY 10017  
Attn: Marshall S. Huebner and Brian M. Resnick
- (c) Curtis, Mallet-Prevost, Colt & Mosle LLP  
101 Park Avenue  
New York, NY 10178  
Attn: Steven J. Reisman and Michael A. Cohen
- (d) Office of the United States Trustee for the Southern District of New York  
33 Whitehall Street, Suite 2100  
New York, NY 10004  
Attn: Elisabetta G. Gasparini and Paul K. Schwartzberg
- (e) Kramer Levin Naftalis & Frankel LLP  
1177 Avenue of the Americas  
New York, New York 10036  
Attn: Thomas Moers Mayer and Adam C. Rogoff
- (f) Patriot Coal Corporation  
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- (g) Weil, Gotshal & Manges LLP  
767 Fifth Avenue  
New York, NY 10153  
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(h) Willkie Farr & Gallagher LLP  
787 Seventh Avenue  
New York, NY 10019  
Attn: Margot B. Schonholtz and Ana Alfonso

Dated: July 26, 2012

/s/ Kevin W. Barrett  
Kevin W. Barrett